



Appeal Decision

Site visit made on 12 January 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st January 2021

Appeal Ref: APP/P0240/W/20/3259218

24 Dunstable Road, Houghton Regis, Dunstable LU5 5DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Oleg Rudenko, Old Mill Developments against the decision of Central Bedfordshire Council.
 - The application Ref CB/20/01271/FULL, dated 14 April 2020, was refused by notice dated 11 August 2020.
 - The development proposed is erection of a one-bedroom single-storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a one-bedroom single-storey dwelling at 24 Dunstable Road, Houghton Regis, Dunstable LU5 5DB in accordance with the terms of the application, Ref CB/20/01271/FULL, dated 14 April 2020 subject to the conditions in the attached schedule.

Procedural Matters

2. The appellant's evidence includes drawing no. ASD/2016/002 09 Rev A. This was not part of the original planning application, and shows alterations to the initial proposal resulting in a reduction in the number of parking spaces and changes to site accesses. Although it was attached to an email to the Council dated 19 June 2020, it is not clear from the evidence before me that the revised plan was subject to consultation with interested parties. Nor that the Council determined the application with reference to it given that neither the plan nor the altered layout are referred to within the Council's decision notice, officer report or appeal evidence. In my view, the alterations represent a material change to the proposal, and I am concerned that if I were to determine the appeal with regard to this plan, it is possible that the interests of parties who might wish to comment on the change would be prejudiced. I have therefore determined the appeal on the basis of the originally submitted plans.
3. I have been referred to policies within the emerging Central Bedfordshire Local Plan 2015-2035. The emerging plan was submitted to the Secretary of State in 2018, but is yet to be adopted and so is subject to change. In addition, I have not been provided with details of unresolved objections to the plan, and therefore the weight that it carries in my decision is limited.

Main Issues

4. The main issues are (i) the effect of the proposal on the living conditions of the occupiers of 1 Orchard Close with particular regard to outlook and (ii) the effect of the proposal on highway safety.

Reasons

Living Conditions

5. The proposed dwelling would be attached to 24 Dunstable Road, and would extend across the width of the rear elevation of the neighbouring dwelling at 1 Orchard Close and the adjacent part of its garden. It would occupy space to the side of No 24, and the parties indicate that it would reduce separation to the rear of No 1 from around 13m currently to around 8.75m.
6. I have been referred to a previous proposal for a dwelling on the site which was dismissed at appeal¹. Although I have not been provided with full details of that development, it is clear from the evidence before me that there have been changes to the dwelling which is now proposed. These include a reduction in its height, and increased separation to the boundary with the rear of No 1.
7. The dwelling before me would be set back slightly from the adjacent front part of No 24, and would not project beyond its rear. As a consequence, there would be no increase in the depth of development visible from No 1. The side-facing gable of the roof would also be lower than the one to No 24. While the height difference from the previous scheme would not be great, this would result in a significant reduction in the overall scale of the gable and to the bulk and mass of the upper part of the building in addition to reducing its maximum height. Taken together with these factors, I am satisfied that the set in that is now proposed between the dwelling and the boundary with No 1 would be sufficient to avoid the development appearing overbearing, visually intrusive or harmfully diminishing outlook from either the neighbouring building or its garden. As a result, and in light of the material changes made to the development, I find that harm to neighbouring living conditions identified within the previous appeal decision has been addressed.
8. I therefore conclude that living conditions for the occupiers of 1 Orchard Close would not be unacceptably harmed. As a consequence, the proposal would accord with policy BE8 of the South Bedfordshire Local Plan Review 2004 (SBLPR) which includes a requirement that development ensures no unacceptable adverse effect on residential amenity. I also find no conflict with requirements within the National Planning Policy Framework (the Framework) seeking a high standard of amenity for all users.

Highway Safety

9. The proposal includes alterations to the site to accommodate 2 parking spaces to the front of No 24, and a further space to the front of the new dwelling. From the frontage of the site, I saw that there is reasonable visibility towards the junction of Dunstable Road with Orchard Close. However, gardens to the front of No 24 and adjacent properties extend up to the line of the road so that there is no footway here, and include boundary treatment which restricts visibility towards the junction with Cemetery Road.
10. I note the conclusion of the Inspector in the previous appeal that additional vehicles in this location would increase risks to pedestrians and car drivers. Nevertheless, the current appeal is accompanied by a Transport Statement which provides details including of the existing circumstances around the site, as well as of expected vehicle movements. It also highlights commentary

¹ Appeal reference APP/P0240/W/19/3221587

within the national Manual for Streets 2 guidance that 'based on the research...unless there is local evidence to the contrary, a reduction in visibility below the recommended levels will not necessarily be a problem'.

11. During my visit, I noted very few vehicle or pedestrian movements past the site or in the immediate vicinity. I acknowledge that this is only a snapshot, but given the relatively few properties accessed from Dunstable Road and Orchard Close and the evidence before me, I have no reason to consider that my experience was unusual or that typical traffic volumes past the site are significant. This stretch of Dunstable Road is also between junctions, and with regard to its short length, it seems to me that vehicle speeds would typically be low. The availability of a continuous footway to the opposite side of Dunstable Road also means that I consider pedestrians, including those who may be accessing the nearby public open space, would be likely to prefer that as a path so that numbers crossing the site frontage would in reality be low. I note that an interested party refers to examples of vehicles parking partly on the opposite footway, but many instances such as deliveries would be temporary, and pedestrians passing these vehicles would in any event be likely to exercise additional care as they did so.
12. There are existing accesses onto this part of Dunstable Road including to No 24 where visibility would be similar. Vehicle movements in this location would not therefore be unusual or unexpected, and I have not been provided with any substantive evidence of a history or pattern of incidents in the vicinity which might suggest a pressing highway safety concern arising from this arrangement. The development would comprise a modest, one-bedroom dwelling so that numbers of additional pedestrian and vehicle movements associated with the proposal are likely to be low overall, and only those exiting the site would be affected by the reduced visibility towards Cemetery Road.
13. While visibility for those few vehicles exiting the site would not be ideal, the point at which the site meets the highway would be visible to other vehicles and pedestrians approaching the site. Given the low volume and speed of movements both from and past the site, I do not consider that the arrangement would lead to significant conflicts so as to compromise the safety of pedestrians or highway users. Moreover, the Framework advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. I consider that such unacceptable or severe effects would be far from the case here.
14. In this context and with regard to the evidence before me, I have reached a different view from the Inspector who considered the previous appeal on the site, and for the reasons above, I conclude that the development would not be detrimental to highway safety. Accordingly, I find no conflict with Policy T10 of the SBLPR which seeks to ensure appropriate levels of parking while avoiding harm, including to highway safety. Nor do I find conflict with the Framework which seeks to ensure safe and suitable access to development.

Other Matters

15. The Council did not refuse the application on grounds of character, referring to the conclusions of the previous appeal Inspector that the effect of an additional dwelling here would not justify refusal. I see no reason to disagree. The Council

is also satisfied that the number of parking spaces would be acceptable, and there is no compelling evidence to the contrary.

16. The development would reduce outside space for No 24, but many dwellings do not benefit from accesses to their sides, and a retained garden to the rear would provide for occupiers. Given the scale and position of the development and arrangement of fenestration as well as provision for boundary treatment, I am also satisfied that there would not be unacceptable loss of privacy or light for neighbouring occupiers. There is no firm evidence that any asbestos present on the site could not be suitably managed as part of construction works, nor that the development would cause drainage problems.
17. While I have had regard to representations made by interested parties, I am satisfied that none of the other matters raised, either individually or collectively, would result in harm that would justify dismissal of the appeal, and they do not alter my findings on the main issues.

Conditions

18. Where necessary, I have amended the Council's suggested conditions in light of the tests set out at paragraph 55 of the National Planning Policy Framework and for the sake of clarity. I have also avoided the use of pre-commencement conditions where this is not necessary for a condition to achieve its purpose.
19. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. A condition regarding external materials is necessary to ensure a satisfactory appearance. However, the submitted details specify that these would match the existing building at No 24, and given the context of the surrounding area, I see no reason that further details would be required. Similarly, while it is necessary to secure the implementation of boundary treatment to protect the living conditions of occupiers, these are detailed on the submitted drawings and it is not clear what additional information would be required. I have therefore altered the Council's suggested conditions.
20. A condition relating to the provision of landscaping is necessary in the interests of the character and appearance of the area, but no clear justification to require details prior to any works taking place has been provided. I have also imposed a condition for development to follow the Council's Construction Code of Practice for Developers and Contractors to minimise impacts on neighbouring occupiers.
21. Finally, the Council has suggested a condition which would remove permitted development rights for the development. I am mindful of paragraph 53 of the Framework which indicates that such conditions should only be used where there is clear justification to do so. However, given the relationship of the dwelling with its surroundings, I consider it would be necessary in this case to control the construction of extensions in the interests of the living conditions of neighbouring occupiers.

Conclusion

22. Access for the development would not be ideal, but I have found that this would not harm highway safety. I have also found that living conditions for neighbouring occupiers would be acceptable. The Council can demonstrate a five year supply of housing, but this is not a ceiling on development. The

proposal would deliver an additional dwelling within a built-up area, consistent with objectives within the Framework seeking to significantly boost the supply of housing. Despite the modest contribution, I consider that this would be an important benefit which would outweigh the limitations of the access.

23. For the reasons above, the proposal would accord with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be allowed.

J Bowyer
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ASD/2016/002 07 and ASD/2016/002 09.
- 3) The external materials of the development hereby permitted shall match those used in the existing building at 24 Dunstable Road as specified on the approved plans listed at Condition 2 and described within the application form.
- 4) No development above ground level shall take place until a landscaping scheme to include details of all hard and soft landscaping and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented by the end of the full planting season immediately following the completion and/or first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape maintenance scheme, and any which die or are destroyed within five years following the implementation of the landscaping scheme shall be replaced during the next planting season.
- 5) The boundary treatment as specified on the approved plans listed at Condition 2 shall be completed before the development hereby permitted is first occupied and shall be retained as such thereafter.
- 6) The development hereby permitted shall be undertaken in full accordance with the Council's adopted 'Construction Code of Practice for Developers and Contractors'.
- 7) Notwithstanding the provisions of Part 1, Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions to the dwelling hereby permitted shall be carried out without the grant of further specific planning permission.

End of Schedule